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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

No. 20

THOMAS W. WHITE, INDIVIDUALLY AND AS FORMER COLLECTOR OF INTERNAL REVENUE, PETITIONER

vs.

PHILIP J. ARONSON, TRUSTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

PETITION FOR CERTIORARI FILED APRIL 3, 1937

CERTIORARI GRANTED MAY 3, 1937

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

No. 20

THOMAS W. WHITE, INDIVIDUALLY AND AS FORMER COLLECTOR OF INTERNAL REVENUE, PETITIONER

vs.

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ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT

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UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIRST CIRCUIT.

OCTOBER TERM, 1935.

No. 3171.

PHILIP J. ARONSON, TRUSTEE,
PLAINTIFF, APPELLANT,
v.
THOMAS W. WHITE, INDIVIDUALLY AND AS FORMER COLLECTOR OF INTERNAL REVENUE,
DEFENDANT, APPELLEE.

TRANSCRIPT OF RECORD OF DISTRICT COURT.

No. 6463 LAW DOCKET.

PHILIP J. ARONSON, TRUSTEE IN BANKRUPTCY OF THE VIKING MANUFACTURING COMPANY, INC., PLAINTIFF,
v.
THOMAS W. WHITE, INDIVIDUALLY, AND AS FORMER COLLECTOR OF INTERNAL REVENUE, DEFENDANT.

WRIT.

[L. S.] MASSACHUSETTS DISTRICT, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Marshal of our District of Massachusetts or his Deputy, GREETING:

We command you to attach the goods or estate of Thomas W. White, of Newton, Middlesex County, individually and as he was formerly Collector of Internal Revenue for the United States, Collection District of Massachusetts, defendant, in our District of Massachusetts, to the value of fifty thousand (50,000) dollars, and to summon said defendant (if he may be found in your district), to appear before our Judge of our District Court, next to be holden at Boston,

within and for our said District of Massachusetts, on the second Tuesday of September, 1935, then and there, in our said court, to answer unto Philip J. Aronson, of Brookline, Norfolk County, Massachusetts, as he is Trustee in Bankruptcy of The Viking Manufacturing Company, Inc., a Massachusetts corporation formerly of Boston, Suffolk County, Massachusetts, plaintiff, in an action of contract.

To the damage of the said plaintiff (as he says) the sum of fifty thousand (50,000) dollars, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein.

Witness the Honorable ELISHA H. BREWSTER, at Boston, the seventh day of June in the year of our Lord one thousand nine hundred and thirty-five.

JAMES S. ALLEN, *Clerk,*
by HELEN I. TWEEDY, *Deputy Clerk.*

OFFICER'S RETURN ON WRIT.

UNITED STATES OF AMERICA.

MASSACHUSETTS DISTRICT, ss. BOSTON, June 20, 1935.

Pursuant hereunto I have this day attached a chip, the property of the within named Thomas W. White, and later on the same day I summoned the within named Thomas W. White to appear at court and answer as herein directed by giving to him in hand at Newton in the said District an original summons to this writ.

JOHN J. MURPHY, *United States Marshal,*
by DANIEL J. CHAPMAN, *Deputy.*

The writ in this cause is dated the seventh day of June, A. D. 1935, and was duly entered at the September Term of this court, A. D. 1935, when and where the parties appeared by their respective attorneys.

At the entry of this cause, to wit, September 10, 1935, the following Declaration was filed:

DECLARATION.

[Filed September 10, 1935.]

COUNT I. 1. The plaintiff is, and was at all times material herein, a resident of Brookline, County of Norfolk in the Commonwealth of Massachusetts, and a citizen of the United States.

2. The Viking Manufacturing Company, Inc. is a corporation duly organized under the laws of Massachusetts, formerly having its usual place of business in Boston, County of Suffolk, in said Commonwealth. Said corporation was engaged in the business of manufacturing jig saw puzzles. On or about September 29, 1934, it was duly adjudicated a bankrupt upon a voluntary petition filed in this court. Plaintiff was thereafter appointed trustee in bankruptcy of said corporation on October 23, 1934.

3. The defendant, Thomas W. White, is a resident of Newton, in the County of Middlesex in said Commonwealth, and was from December 1, 1925 to August 31, 1933, the duly appointed Collector of Internal Revenue of the United States of America for the District of Massachusetts.

4. This is a suit, arising under the laws of the United States providing for internal revenue, to recover the sum of thirty-seven thousand twenty-one and 63/100 dollars ($37,021.63), which was wrongfully and erroneously assessed against The Viking Manufacturing Company, Inc. and illegally and unlawfully collected from it as a manufacturer's excise tax by the defendant while acting as such Collector of Internal Revenue, the defendant claiming the right to assess, demand and collect said tax from The Viking Manufacturing Company, Inc., under the provisions of Section 609 of the Revenue Act of 1932.

5. Section 609 of the Revenue Act of 1932 provides as follows:

"SEC. 609. TAX ON SPORTING GOODS.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Tennis rackets, tennis racket frames and strings, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles, polo mallets, base-